U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG-PE-RCC** 

**FILE NUMBER:** D-16147(01)

### PROJECT LOCATION INFORMATION:

State: TX County: Nueces

27-42-42/97-20-44 Center coordinates of site (latitude/longitude):

Approximate size of area (parcel) reviewed, including uplands: 42 acres.

Name of nearest waterway: Oso Bay Name of watershed: Corpus Christi Bay

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 7 January 2005 Date(s): 16 June 2004

#### Jurisdictional Determination (JD):

3.4	Preliminary JD - Based on available information, \( \square\$ there appear to be (or) \( \square\$ there appear to be no "waters of the
	United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable
	(Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 42 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

  - [1] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
    - (5) The presence of a tributary to a water identified in (1) (4) above.
    - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Prior site inspection confirmed the presence of adjacent wetlands, tributary and manmade impoundment of that tributary.

FILE NUMBER: D-16147(01)

Laters  O  D  D  C	the presence of litter and debris
M C	lean High Water Mark indicated by:  ] survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
	Vetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: hiner Moseley & Associates, Inc.
T U H T	retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
DATA RE  M D C C U U U U U N S F 10 A S A	VIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  laps, plans, plots or plat submitted by or on behalf of the applicant.  ata sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  ata sheets prepared by the Corps.  orps' navigable waters' studies:  S. Geological Survey Hydrologic Atlas:  S. Geological Survey 7.5 Minute Topographic maps:  S. Geological Survey 7.5 Minute Historic quadrangles:  S. Geological Survey 15 Minute Historic quadrangles:  S. Geological Survey 15 Minute Historic quadrangles:  SDA Natural Resources Conservation Service Soil Survey:  ational wetlands inventory maps:  tate/Local wetland inventory maps:  tate/Local wetland inventory maps:  tate/Local wetland inventory maps:  (NGVD)  crial Photographs (Mame & Date):  2002 DOQQ; 19  ther photographs (Date): 1956 SCS  dvanced Identification Wetland maps:  tie visit/determination conducted on:  pplicable/supporting case law:  ther information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG** FILE NUMBER: D-15829

## PROJECT LOCATION INFORMATION:

State:

Texas

County:

San Patricio

Center coordinates of site (latitude/longitude):

N27 52' 19.6" W97 13' 43.4"

Approximate size of area (parcel) reviewed, including uplands: 38 acres. Name of nearest waterway: La Quinta Ship Channel / Corpus Christi Bay

Name of watershed: North Corpus Christi Bay

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 01/05/2005

Date(s): 12/7/2004 and 12/21/2004

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or)} \subseteq \text{there appear to be no "waters of the appear to be no" waters of the appear to be no" waters of the appear to be no "waters of the appear to be no "waters of the appear to be no "waters of the appear to United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: D-15829

Late	eral Extent of Jurisdiction: (Reference: 33 CFR parts 32	8 and 329)
<u> 13</u>	Ordinary High Water Mark indicated by:	High Tide Line indicated by:
	clear, natural line impressed on the bank	oil or scum line along shore objects
	the presence of litter and debris	fine shell or debris deposits (foreshore)
	changes in the character of soil	<pre>physical markings/characteristics</pre>
	destruction of terrestrial vegetation	tidal gages
	shelving	other:
	other:	
S.A.	Mean High Water Mark indicated by:	
	☐ survey to available datum; ☐ physical markings; ☐	vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland of	lelineation map and/or in a delineation report prepared by:
Bas	is For Not Asserting Jurisdiction:	
<u>S</u>	The reviewed area consists entirely of uplands.	200( )(4, 0, -4, 0)
	Unable to confirm the presence of waters in 33 CFR part	328(a)(1, 2, or 4-7).
MA.	Headquarters declined to approve jurisdiction on the bas	is of 33 CFR part 328.3(a)(3).
		he following waters present on the site are not Waters of the
	United States:	11
	Waste treatment systems, including treatment po	nds or lagoons, pursuant to 33 CFR part 326.3.
	Artificially irrigated areas, which would revert to	upland if the irrigation ceased.
	Artificial lakes and ponds created by excavating	and/or diking dry land to collect and
		such purposes as stock watering, irrigation, settling basins, or
	rice growing.	
	Artificial reflecting or swimming pools or other	small omamental bodies of water created
	by excavating and/or diking dry land to retain w	dental to construction activity and pits excavated in dry land for
	Water-filled depressions created in dry land incid	ess and until the construction or excavation operation is
	the purpose of obtaining fill, sand, or gravel unit	s the definition of waters of the United States found at 33 CFR
		; the definition of waters of the officed states found at 33 of R
	328.3(a).	estata aammaraa
	Isolated, intrastate wetland with no nexus to inte Prior converted cropland, as determined by the N	Natural Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavate	d on dry land. Explain rationale: Some wetlands on the
	property are in non-tidal drainage ditches excavated	from uplands. We are unable to establish a historical
	natural connection to waters of the US.	
	Other (explain):	
DAT <u>A</u> F	REVIEWED FOR JURSIDICTIONAL DETERMINA	TION (mark all that apply):
2	Maps, plans, plots or plat submitted by or on behalf of the	ne applicant.
25	Data sheets prepared/submitted by or on behalf of the ap	plicant.
	This office concurs with the delineation report, date	d , prepared by (company):
	This office does not concur with the delineation rep	ort, dated , prepared by (company):
5.5	Data sheets prepared by the Corps.	
12.1	Corps' navigable waters' studies:	
	U.S. Geological Survey Hydrologic Atlas:	Port Ingleside, TX and Aransas Pass, TX (1954, and 1975)
	U.S. Geological Survey 7.5 Minute Topographic maps.	roll ligitside, 1A and Aransas 1 ass, 1A (1954, and 1975)
2 2 - 40 A - 10 - 10 A -	U.S. Geological Survey 7.5 Minute Historic quadrangles	).
00 - 1 - 1 - 1	U.S. Geological Survey 15 Minute Historic quadrangles USDA Natural Resources Conservation Service Soil Su	ruev: San Patricio County
	National wetlands inventory maps: Port Ingleside, TX a	nd Arangas Pass TX (1975)
盛		III Aldisas I ass, 17 (1775)
	State/Local wetland inventory maps:	County-Panel 438 of 533 (Map # 4855060438D) August 4, 2004
2	San Patricio Co	ounty-Panel 526 of 533 (Map # 485506 0526 C) March 18, 1985
		, and see of see (Map ii 100000 color c, see )
100 100 100 100 100 100 100 100 100 100	100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): GLO 2002, 1995, 1	990 1989 1979
	Other photographs (Date):	220g 2202g 4212
90	Advanced Identification Wetland maps:	
	Site visit/determination conducted on: December 7, 200	4 and December 21, 2004
Z	Applicable/supporting case law:	· was a vestalous may move
20% 20%	Other information (please specify):	
40.14	onici miormation (piense specity).	

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG FILE NUMBER: I-4988** 

### PROJECT LOCATION INFORMATION:

State:

Texas

County:

Cameron Center coordinates of site (latitude/longitude):

N26° 13' 51" W97° 35' 02"

Approximate size of area (parcel) reviewed, including uplands:

Name of nearest waterway: Arroyo Colorado

Name of watershed:

## JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)



Date: 9/27/04

Date(s):

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or) } \subseteq \text{there appear to be no "waters of the appear to be no" waters of the appear to be no "waters of the appear t United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

**FILE NUMBER: I-4988** 

Lat	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  □ clear, natural line impressed on the bank □ the presence of litter and debris □ changes in the character of soil □ destruction of terrestrial vegetation □ shelving □ other:  □ tidal gages □ other: aerial photography
E	Mean High Water Mark indicated by:  survey to available datum; physical markings; vegetation lines/changes in vegetation types.  Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	is For Not Asserting Jurisdiction:  The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
	Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
	Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
	Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
DATA I	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Rio Hondo  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Acological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 16 Minute Historic quadrangles:  U.S. Geological Survey 17 Minute Historic quadrangles:  U.S. Geological Survey 17 Minute Historic quadrangles:  U.S. Geological Survey 17 Minute Historic quadrangles:  U.S. Geo

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG **FILE NUMBER:** I-4987

### PROJECT LOCATION INFORMATION:

State: Texas County: Cameron

Center coordinates of site (latitude/longitude):

N26° 13' 51" W97° 35' 02"

Approximate size of area (parcel) reviewed, including uplands:

acres.

Name of nearest waterway: Arroyo Colorado

Name of watershed:

# JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 9/27/04 Date(s):

### Jurisdictional Determination (JD):

37	Preliminary JD - Based on available information, \( \square \) there appear to be (or) \( \square \) there appear to be no "waters of the
	United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable
	(Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
    - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
    - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: I-4987

<u>La</u> t	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)
	Ordinary High Water Mark indicated by:  High Tide Line indicated by:
	clear, natural line impressed on the bank oil or scum line along shore objects fine shell or debris deposits (foreshore)
	shelving
	other:
	Mean High Water Mark indicated by:
2002	☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
6.10	wettaild boundaries, as shown on the attached wettaild defineation map and of in a defineation report propuled by
Bas	is For Not Asserting Jurisdiction:
	The reviewed area consists entirely of uplands.
2.00 8.00 2.00 2.00 2.00 2.00 2.00 2.00	Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- 3	Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
	The Corps has made a case-specific determination that the following waters present on the site are not Waters of the
	United States:
	Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
	Artificially irrigated areas, which would revert to upland if the irrigation ceased.
	Artificial lakes and ponds created by excavating and/or diking dry land to collect and
	retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or
	rice growing.
	Artificial reflecting or swimming pools or other small ornamental bodies of water created
	by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
	Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for
	the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is
	abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR
	328.3(a).
	Isolated, intrastate wetland with no nexus to interstate commerce.
	Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
	Other (explain):
DATA F	REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):
ž1	Maps, plans, plots or plat submitted by or on behalf of the applicant.
77.77 C.S.	Data sheets prepared/submitted by or on behalf of the applicant.
-	This office concurs with the delineation report, dated , prepared by (company):
	This office does not concur with the delineation report, dated , prepared by (company):
21	Data sheets prepared by the Corps.
	Corps' navigable waters' studies:
F1.0	U.S. Geological Survey Hydrologic Atlas:
X	U.S. Geological Survey 7.5 Minute Topographic maps: Rio Hondo
militari All'ini Anna	U.S. Geological Survey 7.5 Minute Historic quadrangles:
	U.S. Geological Survey 15 Minute Historic quadrangles:
1	USDA Natural Resources Conservation Service Soil Survey:
**************************************	National wetlands inventory maps:
Ŧ	State/Local wetland inventory maps:
	FEMA/FIRM maps (Map Name & Date):
	100-year Floodplain Elevation is: (NGVD)
7-75 MMR	Aerial Photographs (Name & Date):
AZ TAMA	Other photographs (Date):
	Advanced Identification Wetland maps:
3770s	Site visit/determination conducted on:
77.2	Applicable/supporting case law:
70000 20000	Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG FILE NUMBER: 17850(03)** 

### PROJECT LOCATION INFORMATION:

State:

Texas

County:

Cameron

Center coordinates of site (latitude/longitude):

N25° 57' 29" 97° 23' 11"

Approximate size of area (parcel) reviewed, including uplands:

acres.

Name of nearest waterway: Port of Brownsville

Name of watershed:

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Date: 1/6/05

Date(s):

## Jurisdictional Determination (JD):

Site visit(s)

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

Marchere are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

#### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

**FILE NUMBER: 17850(03)** 

extent of Jurisdiction: (Reference: 33 CFR partners) High Water Mark indicated by: clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:	ts 328 and 329)  High Tide Line indicated by:  oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other: aerial
n High Water Mark indicated by:  urvey to available datum;   physical marking	s;  vegetation lines/changes in vegetation types.
and boundaries, as shown on the attached wetla	and delineation map and/or in a delineation report prepared by:
ed States: Waste treatment systems, including treatmer Artificially irrigated areas, which would reve Artificial lakes and ponds created by excava retain water and which are used exclusively rice growing. Artificial reflecting or swimming pools or of by excavating and/or diking dry land to retai Water-filled depressions created in dry land the purpose of obtaining fill, sand, or gravel abandoned and the resulting body of water n 328.3(a). Isolated, intrastate wetland with no nexus to	basis of 33 CFR part 328.3(a)(3). hat the following waters present on the site are not Waters of the hat ponds or lagoons, pursuant to 33 CFR part 328.3. Here to upland if the irrigation ceased. Here t
Non-tidal drainage or irrigation ditches exca	
EWED FOR JURSIDICTIONAL DETERMING, plans, plots or plat submitted by or on behalf sheets prepared/submitted by or on behalf of the Chis office concurs with the delineation report, This office does not concur with the delineation sheets prepared by the Corps.  So navigable waters' studies:  Geological Survey Hydrologic Atlas:  Geological Survey 7.5 Minute Topographic mangeological Survey 15 Minute Historic quadrangeological Survey 15 Minute Historic quadrange	of the applicant. e applicant. dated , prepared by (company): report, dated , prepared by (company):  ps: ngles: East Brownsville quad gles:
	ary High Water Mark indicated by: clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  High Water Mark indicated by: rvey to available datum;  physical marking and boundaries, as shown on the attached wetla  Not Asserting Jurisdiction: eviewed area consists entirely of uplands. le to confirm the presence of waters in 33 CFR quarters declined to approve jurisdiction on the Corps has made a case-specific determination the d States:  Waste treatment systems, including treatment Artificially irrigated areas, which would rew Artificial lakes and ponds created by excavar retain water and which are used exclusively rice growing.  Artificial reflecting or swimming pools or of by excavating and/or diking dry land to retain Water-filled depressions created in dry land the purpose of obtaining fill, sand, or gravel abandoned and the resulting body of water in 328.3(a). Isolated, intrastate wetland with no nexus to Prior converted cropland, as determined by t  Non-tidal drainage or irrigation ditches exca Other (explain):  WED FOR JURSIDICTIONAL DETERMIN, plans, plots or plat submitted by or on behalf of th his office concurs with the delineation report, this office does not concur with the delineation sheets prepared/submitted by or on behalf of th his office does not concur with the delineation sheets prepared by the Corps.  Year in a submitted by or on behalf of th his office does not concur with the delineation sheets prepared by the Corps.  Year in a submitted by or on behalf of th his office does not concur with the delineation and wellands inventory maps: Coological Survey 7.5 Minute Historic quadran A Natural Resources Conservation Service Soil and wetlands inventory maps: Local wetland inventory map

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

FILE NU		E:	CESWG D-16766						
State: Coun Cente Appro Name	ty: ( cr coordinate si	Texas Chamber ates of single ze of are t waterw	FORMATION s te (latitude/long a (parcel) revie ay: Cedar Bay Galveston Bay	gitude): wed, inclue ou			4° 55' 15"W	,	
	pleted: I		RMINATION determination (s)		Date: Date(s):	1/4/04			
Juris	dictional l	Determi	nation (JD):					•	
1	United Sta	tes" and						pear to be no "wa iminary JD is not	
	Approved Check all t		approved JD is	an appeala	able action (Re	ference 33 C	FR part 331).		
ļ	There of the review	<i>ire</i> "navi ed area.	gable waters of Approximate s	the United ize of juris	l States" (as de dictional area:	fined by 33 (	CFR part 329 and	d associated guid	ance) within
<b> </b>	There of the contract of the c	are "wate rea. Ap	ers of the Unite proximate size	d States" ( of jurisdict	as defined by i	33 CFR part	328 and associat	ed guidance) with	hin the
i		are "isolo M					vithin the review ule Information S	ved area. Sheet for Determi	ination of No
A. V	<b>Waters de</b> The presen	fined unce of wa		art 329 as oject to the	"navigable was ebb and flow	of the tide and		y used, or have b	een used in
i (	<ul> <li>(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.</li> <li>(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.</li> </ul>							mudflats,	
( [ 	destruction (i) wh (ii) fro (iii) w (4) Impour	of which of are of which are hich are adments	h could affect i r could be used n fish or shellfis	nterstate co by intersta sh are or co ed for indus wise define	ommerce inclu te or foreign to ould be taken a strial purposes and as waters of	ding any such avelers for rend sold in into by industries the US.	or natural ponds waters (check a ecreational or other erstate or foreign in interstate con	all that apply): her purposes. n commerce.	lation or
	6) The pre 7) The pre	sence of	territorial seas wetlands adjac	ent <sup>2</sup> to oth	er waters of th	e US, except	for those wetlan	ds adjacent to oth	her wetlands
								ove). If the jurison the downstream	

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

	Ordinary High Water Mark indicated by:  Clear, natural line impressed on the bank  Changes in the character of soil  destruction of terrestrial vegetation  shelving  ordinary High Water Mark indicated by:  High Tide Line indicated by:  oil or scum line along shore objects  fine shell or debris deposits (foreshore)  physical markings/characteristics  tidal gages  other:	
<b>3</b>	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.	
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:	
Bas S	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land fine the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFF 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Upland drainage ditch with no direct connection to a water of the United States.  Other (explain):	2
DATA I	REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  ☐ This office concurs with the delineation report, dated, prepared by (company):  ☐ This office does not concur with the delineation report, dated _Nov 2004, prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Historic quadrangles:  U.S. Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 16 Minute Historic quadrangles:  U.S. Geological Survey 17 Minute His	SF

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** SWG **FILE NUMBER:** D-16137

S C A N	tate: County: Center coo Approxim	Texa Cha ordinates ate size o earest wa	mbers of site (latitu of area (parce aterway: Cot	ide/longitude l) reviewed, ton Bayou		29.7860; 95.1102 g uplands: <1 acres.
		d: Des	ETERMINA ktop determin visit(s)		⊠ ⊡	Date: 22 December 2004 Date(s):
J	urisdicti	onal Det	ermination (	( <b>JD</b> ):		
	Unite	d States'		igable water		, there appear to be (or) there appear to be no "waters of the nited States" on the project site. A preliminary JD is not appealable
L		oved JD k all that		ed JD is an a	appealable	action (Reference 33 CFR part 331).
			"navigable w area. Approx			ates" (as defined by 33 CFR part 329 and associated guidance) within ional area:
			"waters of th . Approxima			lefined by 33 CFR part 328 and associated guidance) within the al area:
	⊠ T	here are		on supported		te waters or wetlands" within the reviewed area.  NCC/Migratory Bird Rule Information Sheet for Determination of No.
A	Mate	rs defin	of waters tha	CFR part 3 t are subject	329 as "na to the ebb	avigable waters of the United States":  o and flow of the tide and/or are presently used, or have been used in an interestate or foreign commerce.
-	(1) T inters	he preser tate or fo	nce of waters oreign comm	, which are o erce, includi	currently ung all wat	s "waters of the United States": used, or were used in the past, or may be susceptible to use in ers which are subject to the ebb and flow of the tide. uterstate wetlands <sup>1</sup> .
	(3) T sandidestr	he present lats, wet action of i) which ii) from iii) which iii) which	nce of other valands, slough which could are or could which fish out on the are or could the are or could the are or could the are or could the are of wate	waters such a is, prairie po affect inters be used by it r shellfish ard d be used for rs otherwise	as intrastat tholes, we state comm interstate of e or could r industria defined a	te lakes, rivers, streams (including intermittent streams), mudflats, et meadows, playa lakes, or natural ponds, the use, degradation or nerce including any such waters (check all that apply): or foreign travelers for recreational or other purposes. be taken and sold in interstate or foreign commerce. Il purposes by industries in interstate commerce.
	(6) T (7) T	he presei he presei	nce of territon nce of wetlan	rial seas. ds adjacent <sup>2</sup>	to other v	ed in (1) – (4) above.  vaters of the US, except for those wetlands adjacent to other wetlands  ation (applies to any boxes checked above). If the jurisdictional

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Cotton Bayou, and it's adjacent wetlands, are waters of the United States

FILE NUMBER: D-16137

La	Ordinary High Water Mark indicated by:  I clear, natural line impressed on the bank I the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  High Tide Line indicated by:  Oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages  other:
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Texas Department of Transportation
	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	<ul><li>Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:</li><li>Other (explain):</li></ul>
	REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: 1995  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 16 Minute Historic quadrangles:  U.S. Geological Survey 17.5 Minute Historic quadrangles:  U.S. Geological Survey 18 Minute Historic quadrangles:  U.S. Geological Survey 195  U.S. Geologica

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** SWG FILE NUMBER: D-16136

	tate: Texas County: Chambers Center coordinates of site (latitude/longitude): 29.7860; 95.1102 Approximate size of area (parcel) reviewed, including uplands: <1 acres. Clame of nearest waterway: Cotton Bayou Clame of watershed: Cotton Lake				
	SDICTIONAL DETERMINATION  Completed: Desktop determination				
	urisdictional Determination (JD):				
	Preliminary JD - Based on available information, \(\simega\) there appear to be (or) \(\simega\) there appear to be no "waters of United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appeal a (Reference 33 CFR part 331).	the ble			
	Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:				
	There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) we the reviewed area. Approximate size of jurisdictional area:	ithin			
	There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:				
	There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of Jurisdiction.	of No			
BASI		l in			
<ul> <li>B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":</li> <li>(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to us interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.</li> <li>(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.</li> </ul>					
1	(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):  (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.	,			

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Cotton Bayou, and it's adjacent wetlands, are waters of the United States

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

FILE NUMBER: D-16136

	teral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  Clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving ordinary High Water Mark indicated by: High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Texas Department of Transportation
Bas	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
DATA F	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: 1995  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic conductangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 16 Minute Historic quadrangles:  U.S. Geological Survey 17 Minute Historic quadrangles:  U.S. Geological Survey 18 Minute Historic quadrangles:  U.S. Geological Survey 19 Minute Historic quadrangles:  U.S. Geological Survey 19 Minute Historic quadrangles:  U.S. Geological Survey 10 Minute Historic quadrangles:  U.S. Geolog

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG** FILE NUMBER: D-16827

#### PROJECT LOCATION INFORMATION:

State:

Texas

County:

Fort Bend

Center coordinates of site (latitude/longitude):

Lat: 29-30-55.7730 Long: 95-30-17.5761

Approximate size of area (parcel) reviewed, including uplands: 5.5 acres.

Name of nearest waterway: Oyster Creek Name of watershed: Austin-Oyster

Site visit(s)

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Date: 4 January 2005

Date(s):

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, \( \square\$ there appear to be (or) \( \square\$ there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: D-16827

La	Ordinary High Water Mark indicated by:  I clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  I think Tide Line indicated by:  I High Tide Line indicated by:  Oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages  Other:
	Mean High Water Mark indicated by: ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
IJ	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Berg-Oliver Associates and Gulf Coast Engineering and Surveying
Bas	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
	Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	<ul><li>Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:</li><li>Other (explain):</li></ul>
DATA I	REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Missouri City, Tex. Photorevised 1980  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Datural Resources Conservation Service Soil Survey:  National wetlands inventory maps: Missouri City, Tex 1999  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date): Fort Bend Couny; Panel 270 of 550; 3 January 1997  100-year Floodplain Elevation is: 86 (NGVD)  Aerial Photographs (Name & Date): 1995 Infrared Aerial  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG **FILE NUMBER:** D-16498

FILE	NUMBER: D-10498
Sta Co Ce Ap Na	ECT LOCATION INFORMATION: ate: Texas punty: Matagorda enter coordinates of site (latitude/longitude): 28 47' 02" N 95 35' 00" approximate size of area (parcel) reviewed, including uplands: ? acres. une of nearest waterway: Gulf of Mexico une of watershed: East Matagorda Bay
	DICTIONAL DETERMINATION  ompleted: Desktop determination
Jui	risdictional Determination (JD):
Ø	Preliminary JD - Based on available information, \( \subseteq \text{ there appear to be (or) } \subseteq  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
	Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
	There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of N Jurisdiction.
A.	OF JURISDICTIONAL DETERMINATION:  Waters defined under 33 CFR part 329 as "navigable waters of the United States":  The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
B.	Waters defined under 33 CFR part 328.3(a) as "waters of the United States":  (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.  (2) The presence of interstate waters including interstate wetlands.  (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):  (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.  (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.  (iii) which are or could be used for industrial purposes by industries in interstate commerce.  (4) Impoundments of waters otherwise defined as waters of the US.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The supplied project description from the Real Estate Division had very few project specifics. Any wetlands located behind the revetment are adjacent to the Gulf of Mexico. The Gulf of Mexico is a navigable water of the United States subject to the ebb and flow of the daily tide. Additionally, the area around the revetment project is known to have adjacent wetlands. Any wetlands present are in close proximity to the Gulf of Mexico and therefore adjacent to it.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

(5) The presence of a tributary to a water identified in (1) – (4) above.

(6) The presence of territorial seas.

FILE NUMBER: -16498 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: High Tide Line indicated by: clear, natural line impressed on the bank oil or scum line along shore objects the presence of litter and debris fine shell or debris deposits (foreshore) changes in the character of soil physical markings/characteristics destruction of terrestrial vegetation tidal gages shelving other: other: Mean High Water Mark indicated by: survey to available datum; physical markings; vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: **Basis For Not Asserting Jurisdiction:** The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  $\Box$ Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for П the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): ☐ This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: Cedar Lakes West, Texas Quad U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): Other photographs (Date): Advanced Identification Wetland maps: Site visit/determination conducted on:

Applicable/supporting case law:
Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: CESWG
FILE NUMBER: D-16821

Stat Cou Cen App Nar		atitude/longitude): 29° 4 arcel) reviewed, includi East Fork of Double Ba	43' 08"N, 94° 36' 21"W (NAD27) ing uplands: <u>0.5</u> acres. ayou
	DICTIONAL DETERM mpleted: Desktop dete Site visit(s)		Date: 07 January 2005 Date(s):
Jur	risdictional Determinati	on (JD):	
		navigable waters of the	on, $\square$ there appear to be (or) $\boxtimes$ there appear to be no "waters of the United States" on the project site. A preliminary JD is not appealable
	Approved JD – An app Check all that apply:	roved JD is an appealab	ble action (Reference 33 CFR part 331).
			States" (as defined by 33 CFR part 329 and associated guidance) within ictional area:
			s defined by 33 CFR part 328 and associated guidance) within the onal area:
	Dec		state waters or wetlands" within the reviewed area.  ANCC/Migratory Bird Rule Information Sheet for Determination of No
	The presence of waters	33 CFR part 329 as "r that are subject to the et	: navigable waters of the United States": bb and flow of the tide and/or are presently used, or have been used in port interstate or foreign commerce.
В.	(1) The presence of wat interstate or foreign cor (2) The presence of inte (3) The presence of oth sandflats, wetlands, slot destruction of which co (i) which are or co (ii) from which fisl (iii) which are or co (4) Impoundments of w (5) The presence of a tr. (6) The presence of terr	ters, which are currently immerce, including all was erstate waters including er waters such as intrastinghs, prairie potholes, would affect interstate comuld be used by interstate in or shellfish are or coul ould be used for industriaters otherwise defined ibutary to a water identificational seas.	tate lakes, rivers, streams (including intermittent streams), mudflats, wet meadows, playa lakes, or natural ponds, the use, degradation or immerce including any such waters (check all that apply):  e or foreign travelers for recreational or other purposes.  It be taken and sold in interstate or foreign commerce.  It is purposes by industries in interstate commerce.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). There is no fill placed below the ordinary high water mark of an unnamed tributary of East Fork of Double Bayou.

La a	teral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  Clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving ordinary High Water Mark indicated by: High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
	Mean High Water Mark indicated by: ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated, prepared by (company):  This office does not concur with the delineation report, dated, prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps:  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. A Ratural Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date):  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** SWG **FILE NUMBER:** 14392(05)/1939

### PROJECT LOCATION INFORMATION:

State: Texas County: Harris

Center coordinates of site (latitude/longitude): 29 35 05 N/95 02 30W Approximate size of area (parcel) reviewed, including uplands: .024 acres.

Name of nearest waterway: Taylor Lake Name of watershed: Galveston Bay

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 4 Jan 2005

Date(s):

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Navigable waterbody

FILE NUMBER: 14392(05)/1939

Extent of Jurisdiction: (Reference: 33 CFR par inary High Water Mark indicated by: clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:	ts 328 and 329)  High Tide Line indicated by:  oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
n High Water Mark indicated by: survey to available datum;	s;  vegetation lines/changes in vegetation types.
land boundaries, as shown on the attached wetla	nd delineation map and/or in a delineation report prepared by:
Waste treatment systems, including treatment Artificially irrigated areas, which would reve Artificial lakes and ponds created by excavatiretain water and which are used exclusively frice growing.  Artificial reflecting or swimming pools or oth by excavating and/or diking dry land to retain Water-filled depressions created in dry land in the purpose of obtaining fill, sand, or gravel unabandoned and the resulting body of water med 328.3(a).  Isolated, intrastate wetland with no nexus to interest areas.	basis of 33 CFR part 328.3(a)(3).  at the following waters present on the site are not Waters of the  t ponds or lagoons, pursuant to 33 CFR part 328.3.  It to upland if the irrigation ceased.  ing and/or diking dry land to collect and  or such purposes as stock watering, irrigation, settling basins, or  ther small ornamental bodies of water created  a water for primarily aesthetic reasons.  Incidental to construction activity and pits excavated in dry land for  unless and until the construction or excavation operation is  eets the definition of waters of the United States found at 33 CFR
Non-tidal drainage or irrigation ditches excav Other (explain):	ated on dry land. Explain rationale:
EWED FOR JURSIDICTIONAL DETERMINGS, plans, plots or plat submitted by or on behalf of sheets prepared/submitted by or on behalf of the This office concurs with the delineation report, de This office does not concur with the delineation of sheets prepared by the Corps.  So navigable waters' studies:  Geological Survey Hydrologic Atlas:  Geological Survey 7.5 Minute Topographic map Geological Survey 7.5 Minute Historic quadrang Geological Survey 15 Minute Historic quadrang A Natural Resources Conservation Service Soil Stonal wetlands inventory maps:  A/FIRM maps (Map Name & Date):  Ayear Floodplain Elevation is:  A/FIRM maps (Name & Date):  A photographs (Name & Date):  A photographs (Date):  A med Identification Wetland maps:  A visit/determination conducted on:	f the applicant. applicant. ated , prepared by (company): report, dated , prepared by (company): s: gles: les:
	clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  In High Water Mark indicated by: Introvey to available datum; physical markings land boundaries, as shown on the attached wetland between the confirm the presence of waters in 33 CFR liquarters declined to approve jurisdiction on the Corps has made a case-specific determination the distates:  Waste treatment systems, including treatment Artificially irrigated areas, which would rever Artificial lakes and ponds created by excavating and/or diking dry land to retain water and which are used exclusively for rice growing.  Artificial reflecting or swimming pools or othe by excavating and/or diking dry land to retain Water-filled depressions created in dry land in the purpose of obtaining fill, sand, or gravel used abandoned and the resulting body of water med 328.3(a).  Isolated, intrastate wetland with no nexus to in Prior converted cropland, as determined by the Non-tidal drainage or irrigation ditches excave Other (explain):  EWED FOR JURSIDICTIONAL DETERMING, plans, plots or plat submitted by or on behalf of the Prior converted cropland, as determined by the Non-tidal drainage or irrigation ditches excave Other (explain):  EWED FOR JURSIDICTIONAL DETERMING, plans, plots or plat submitted by or on behalf of the Prior converted cropland, as determined by the Non-tidal drainage or irrigation ditches excave Other (explain):  EWED FOR JURSIDICTIONAL DETERMING, plans, plots or plat submitted by or on behalf of the Prior converted cropland, as determined by the Non-tidal drainage or irrigation ditches excaved Other (explain):  EWED FOR JURSIDICTIONAL DETERMING, plans, plots or plat submitted by or on behalf of the Prior converted cropland, as determined by the Non-tidal drainage or irrigation ditches excaved the prior converted cropland, as determined by the Non-tidal drainage or irrigation ditches excaved the prior converted cropland in the delineation rep

<sup>&</sup>lt;sup>4</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG **FILE NUMBER:** 22941(02)

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State:

Texas

County: Harris
Center coordinates of site (latitude/longitude):

1

Lat: 29.46.32 Long: 95.04.43

Approximate size of area (parcel) reviewed, including uplands: 4.5 acres.

Name of nearest waterway:

Name of watershed:

#### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Desktop determination
Site visit(s)

Date: 2 December 2004

Date(s):

#### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
- (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

2294/(02) FILE NUMBER: 2<del>2641(02)</del>

	al Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
	For Not Asserting Jurisdiction: The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Unadequarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
DATA RE  M D D D D D D D D D D D D D D D D D D	VIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  daps, plans, plots or plat submitted by or on behalf of the applicant.  ata sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  ata sheets prepared by the Corps.  orps' navigable waters' studies:  S. Geological Survey Hydrologic Atlas:  S. Geological Survey 7.5 Minute Topographic maps:  S. Geological Survey 7.5 Minute Historic quadrangles:  S. Geological Survey 15 Minute Historic quadrangles:  S. Geological Survey 15 Minute Historic quadrangles:  SDA Natural Resources Conservation Service Soil Survey:  ational wetlands inventory maps:  tate/Local wetland inventory maps:  tate/Local wetland inventory maps:  temA/FIRM maps (Map Name & Date):  10-year Floodplain Elevation is: (NGVD)  terial Photographs (Name & Date):  ther photographs (Date):  dvanced Identification Wetland maps:  tet visit/determination conducted on:  pplicable/supporting case law:  ther information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: CESWG **FILE NUMBER: 22941(03)** 

#### PROJECT LOCATION INFORMATION:

State:

Texas

County:

Harris

Center coordinates of site (latitude/longitude):

Lat: 29.47.08 Long: 95.04.34

Approximate size of area (parcel) reviewed, including uplands: 4.5 acres.

Name of nearest waterway:

Name of watershed:

## JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 6 January 2005

Date(s):

#### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, \( \subseteq \text{ there appear to be (or) } \subseteq \text{ there appear to be no "waters of the present the content of the present the content of the present of th United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

- Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: 22941 (03)

	ral Extent of Jurisdiction: (Reference: 33 CFR parts 3 Ordinary High Water Mark indicated by:  clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:	High Tide Line indicated by:  oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:	
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐  Wetland boundaries, as shown on the attached wetland	vegetation lines/changes in vegetation types.  delineation map and/or in a delineation report prepared	by:
	United States:  Waste treatment systems, including treatment por Artificially irrigated areas, which would revert to Artificial lakes and ponds created by excavating retain water and which are used exclusively for strice growing.  Artificial reflecting or swimming pools or other by excavating and/or diking dry land to retain wow Water-filled depressions created in dry land incidente purpose of obtaining fill, sand, or gravel unlead abandoned and the resulting body of water meets 328.3(a).  Isolated, intrastate wetland with no nexus to inte	asis of 33 CFR part 328.3(a)(3).  the following waters present on the site are not Waters of conds or lagoons, pursuant to 33 CFR part 328.3.  to upland if the irrigation ceased.  g and/or diking dry land to collect and such purposes as stock watering, irrigation, settling basis of small ornamental bodies of water created vater for primarily aesthetic reasons.  idental to construction activity and pits excavated in dry less and until the construction or excavation operation is to the definition of waters of the United States found at 3 certain part of the united States found at 3 certain part of the United States found at 3 certain part of the	ins, or  / land for 3 33 CFR
· [	Non-tidal drainage or irrigation ditches excavate Other (explain):	•	
DATA RE	CVIEWED FOR JURSIDICTIONAL DETERMINA' Maps, plans, plots or plat submitted by or on behalf of the Data sheets prepared/submitted by or on behalf of the ap This office concurs with the delineation report, dated This office does not concur with the delineation report Data sheets prepared by the Corps. Corps' navigable waters' studies: J.S. Geological Survey Hydrologic Atlas: J.S. Geological Survey 7.5 Minute Topographic maps: J.S. Geological Survey 7.5 Minute Historic quadrangles: J.S. Geological Survey 15 Minute Historic quadrangles: J.S. Geological Survey 16 Minute Historic quadrangles: J.S. Geological Survey 17 Minute Historic quadrangles: J.S. Geological Survey	the applicant. pplicant. ed , prepared by (company): port, dated , prepared by (company): es:	

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG FILE NUMBER: D-16835

## PROJECT LOCATION INFORMATION:

State:

**Texas** 

County:

Chambers

Center coordinates of site (latitude/longitude):

Lat: 29.44.51 Long: 94.29.12

Approximate size of area (parcel) reviewed, including uplands: 0.013 acres.

Name of nearest waterway: East Fork of Oyster Creek

Name of watershed: East Galveston Bay

#### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)



Date: 5 January 2005

Date(s):

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

FILE NUMBER: D-16835

		nary High Water Mark indicated by: clear, natural line impressed on the bank the presence of litter and debris	E H	High Tide Line indicated by:  oil or scum line along shore objects fine shell or debris deposits (foreshore)
		changes in the character of soil		physical markings/characteristics
		destruction of terrestrial vegetation		tidal gages
		shelving		other:
	Ш	other:		
23		High Water Mark indicated by:  arvey to available datum;  physical markings;	) vegetat	tion lines/changes in vegetation types.
	Wetla	and boundaries, as shown on the attached wetland de	elineatio	on map and/or in a delineation report prepared by:
Bas	is For	Not Asserting Jurisdiction:		
233		eviewed area consists entirely of uplands.		
		le to confirm the presence of waters in 33 CFR part		
		quarters declined to approve jurisdiction on the basis. Corps has made a case-specific determination that the		
		ed States:	ic ionow	ving waters present on the site are not waters of the
		Waste treatment systems, including treatment pon	nds or la	goons, pursuant to 33 CFR part 328.3.
		Artificially irrigated areas, which would revert to	upland	if the irrigation ceased.
		Artificial lakes and ponds created by excavating a		
			uch purp	poses as stock watering, irrigation, settling basins, or
		rice growing.  Artificial reflecting or swimming pools or other si	mall orn	namental hodies of water created
	_	by excavating and/or diking dry land to retain wat		
				construction activity and pits excavated in dry land for
		the purpose of obtaining fill, sand, or gravel unles		
			the defin	nition of waters of the United States found at 33 CFR
		328.3(a). Isolated, intrastate wetland with no nexus to inters	state con	mmaroa
	H	Prior converted cropland, as determined by the Na		
	_			
		Non-tidal drainage or irrigation ditches excavated Other (explain):	l on dry	land. Explain rationale:
DATA E	FVIF	WED FOR JURSIDICTIONAL DETERMINAT	TION (m	nork all that apply):
		, plans, plots or plat submitted by or on behalf of the		
<b>3</b>		sheets prepared/submitted by or on behalf of the app		
		his office concurs with the delineation report, dated		prepared by (company):
		his office does not concur with the delineation repor	rt, dated	, prepared by (company):
100		sheets prepared by the Corps. 'navigable waters' studies:		
		Geological Survey Hydrologic Atlas:		
逐	U.S. C	Geological Survey 7.5 Minute Topographic maps:		
<u>C</u>		Geological Survey 7.5 Minute Historic quadrangles:		
200		Geological Survey 15 Minute Historic quadrangles:		
		A Natural Resources Conservation Service Soil Surv nal wetlands inventory maps:	ey:	
		Local wetland inventory maps:		
		A/FIRM maps (Map Name & Date):		
	100-y	ear Floodplain Elevation is: (NGVD)		
		Photographs (Name & Date):		
A		photographs (Date):		
		nced Identification Wetland maps:		
\$20. 200.		isit/determination conducted on: cable/supporting case law:		
		information (please specify):		

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG FILE NUMBER: 23532

FILE N	UMBER: 23532			
Stat Cou Cen App Nar	inty: Calhoun Counter coordinates of site (la proximate size of area (pane of nearest waterway: I	nty titude/longitude): rcel) reviewed, includ	28° 38' 28" N, 96° 27' 34" W ling uplands: 1.066 acres. ntral Matagorda Bay	
	npleted: Desktop deter Site visit(s)		Date: 4 January 2005 Date(s):	
Jur	isdictional Determinatio	on (JD):		
	Preliminary JD - Based	on available informati	ion, there appear to be (or) there appear to be no "waters of the United States" on the project site. A preliminary JD is not appealable	
×	Approved JD – An approcheck all that apply:	roved JD is an appeala	able action (Reference 33 CFR part 331).	
			States" (as defined by 33 CFR part 329 and associated guidance) with dictional area: 0.013 acre.	ıin
	There are "waters o reviewed area. Approx		as defined by 33 CFR part 328 and associated guidance) within the ional area:	
	Dec		-state waters or wetlands" within the reviewed area.  WANCC/Migratory Bird Rule Information Sheet for Determination of	No
BASIS (A.	The presence of waters	33 CFR part 329 as that are subject to the	N: "navigable waters of the United States": ebb and flow of the tide and/or are presently used, or have been used i sport interstate or foreign commerce.	n
	(1) The presence of wat interstate or foreign cor (2) The presence of inte (3) The presence of oth sandflats, wetlands, slo destruction of which co (i) which are or co (ii) from which fisl (iii) which are or c (4) Impoundments of w (5) The presence of a tr (6) The presence of terms.	ers, which are currently immerce, including all verstate waters including er waters such as intracting the post-based and affect interstate could be used by interstate or shellfish are or could be used for industraters otherwise define ibutary to a water identitorial seas.	istate lakes, rivers, streams (including intermittent streams), mudflats, wet meadows, playa lakes, or natural ponds, the use, degradation or ommerce including any such waters (check all that apply): ate or foreign travelers for recreational or other purposes. build be taken and sold in interstate or foreign commerce. strial purposes by industries in interstate commerce.	ı <b>d</b> s.
р.,		luuladiational Determi	singston (analise to any house shooled shows). If the invitation of	

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Keller Bay is subject to the ebb and flow of the tide and is a water of the United States.

**FILE NUMBER: 23532** 

ral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:    clear, natural line impressed on the bank
Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
<ul> <li>Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:</li> <li>Other (explain):</li> </ul>
EVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated prepared by (company):  This office does not concur with the delineation report, dated prepared by (company):  This office does not concur with the delineation report, dated prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Olivia Quadrangle  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Deological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 16 Minute Historic quadrangles:  U.S. Geological Survey 17 Minute Historic quadrangles:  U.S. Geological Survey 18 Minute Historic quadrangles:  U.S. Geological Survey 19 Minute Historic quadrangles:  U.S. Geological Survey 10 Minute M

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<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG **FILE NUMBER:** 22758(01)

<b>PROJEC</b>	CT LOCATION INFORMATION:	
State	te: Texas	
	unty: Calhoun	
	nter coordinates of site (latitude/longitude):	28° 40' 00" N, 96° 24' 28" W
	proximate size of area (parcel) reviewed, including	uplands: 0.1567 acres.
	me of nearest waterway: Carancahua Bay	
Nan	me of watershed: Huc Code: 12100401, Centra	l Matagorda Bay
HIDICD	NOTIONAL DETERMINATION	
	DICTIONAL DETERMINATION	Date: 2 January 2005
Con	mpleted: Desktop determination Site visit(s)	Date: 3 January 2005
	Site visit(s)	Date(s):
Juri	risdictional Determination (JD):	
П	Preliminary JD - Based on available information.	there appear to be (or) there appear to be no "waters of the
Second 1		nited States" on the project site. A preliminary JD is not appealable
	(Reference 33 CFR part 331).	,
	().	
×	Approved JD - An approved JD is an appealable	action (Reference 33 CFR part 331).
	Check all that apply:	
	······	
		ates" (as defined by 33 CFR part 329 and associated guidance) within
	the reviewed area. Approximate size of jurisdict	ional area: 0.133 acres.
	There we "weetens of the United States" (as d	efined by 33 CFR part 328 and associated guidance) within the
	reviewed area. Approximate size of jurisdictiona	
	reviewed area. Approximate size of jurisdictions	ii alea.
	■ There are "isolated, non-navigable, intra-sta	te waters or wetlands" within the reviewed area.
		NCC/Migratory Bird Rule Information Sheet for Determination of No
	Jurisdiction.	5
BASIS (	OF JURISDICTIONAL DETERMINATION:	
<u>A.</u>	Waters defined under 33 CFR part 329 as "na	
X		and flow of the tide and/or are presently used, or have been used in
	the past, or may be susceptible for use to transpo	rt interstate or foreign commerce.
_	TV . 1.0 1 1 00 CFD . (200.0())	"
В.	Waters defined under 33 CFR part 328.3(a) as	"waters of the United States":
		ised, or were used in the past, or may be susceptible to use in
	(2) The presence of interstate waters including in	ers which are subject to the ebb and flow of the tide.
H	· / I	
		e lakes, rivers, streams (including intermittent streams), mudflats,
		t meadows, playa lakes, or natural ponds, the use, degradation or
		nerce including any such waters (check all that apply):
		or foreign travelers for recreational or other purposes.
		be taken and sold in interstate or foreign commerce.  I purposes by industries in interstate commerce.
	(4) Impoundments of waters otherwise defined a	
H	(5) The presence of a tributary to a water identifi	
H	(6) The presence of a tributary to a water identifit (6) The presence of territorial seas.	ca in (1) (4) above.
H		vaters of the US, except for those wetlands adjacent to other wetlands.
لسا	(/) The presence of wettands adjacent to other v	raters of the OB, except for those wettailes adjacent to other wettailes.
Rat	tionale for the Rasis of Jurisdictional Determina	ation (applies to any boxes checked above). If the jurisdictional

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Carancahua Bay is subject to the ebb and flow of the tides and is a navigable water of the United States.

22758(0)) FILE NUMBER: 22578(01)

	Ordinary High Water Mark indicated by:    Clear, natural line impressed on the bank   Dil or scum line along shore objects   Granges in the character of soil   Dil or scum line along shore objects   Dil or scum li
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	Other (explain):
DATA F	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Olivia Quadrangle  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Autural Resources Conservation Service Soil Survey:  National wetlands inventory maps: Olivia Quadrangle  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date): Olivia se Quadrangle 1995  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify): DA Permit 22758

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG FILE NUMBER: D-16420

### PROJECT LOCATION INFORMATION:

State: Texas County: Brazoria

Center coordinates of site (latitude/longitude): 29 02' 52" N, 95 28' 18" W Approximate size of area (parcel) reviewed, including uplands: 60 acres.

Name of nearest waterway: Buffalo Camp Bayou

Name of watershed: Austin-Oyster

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)



Date:

Date(s): 15 Nov 2004

### Jurisdictional Determination (JD):

37) 31,	Preliminary JD - Based on available information, $\square$ there appear to be (or) $\square$ there appear to be no "waters of the
	United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable
	(Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands <sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Buffalo Camp Bayou and its diversion canal are tributaries to the Brazos River. The adjacent wetlands are located within the 100-year floodplain of the Brazos River. The Brazos River is a navigable water of the United States, as such, these tributaries and adjacent wetlands are waters of the United States subject to Corps of Engineers jurisdiction under Section 404 of the CLean Water Act.

FILE NUMBER: D-16420

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  □ clear, natural line impressed on the bank □ the presence of litter and debris □ changes in the character of soil □ destruction of terrestrial vegetation □ shelving □ other:  □ other: □ others 32 CFR parts 328 and 329) □ High Tide Line indicated by: □ oil or scum line alon fine shell or debris did physical markings/check tidal gages □ other: □ other:	g shore objects eposits (foreshore)
Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in veget	tation types.
Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineat Crouch Environmental Services, Inc.	tion report prepared by:
Basis For Not Asserting Jurisdiction:  The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFI Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect at retain water and which are used exclusively for such purposes as stock watering, in rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water of by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and the purpose of obtaining fill, sand, or gravel unless and until the construction or excapandoned and the resulting body of water meets the definition of waters of the Un 328.3(a).	R part 328.3.  nd rigation, settling basins, or created . pits excavated in dry land for cavation operation is
Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Ser	rvice. Explain rationale:
<ul> <li>Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:</li> <li>Other (explain):</li> </ul>	
Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  ☐ This office concurs with the delineation report, dated 23 Aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 3, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 4, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with the delineation report, dated 2, aug 2004, prepared by: Crou  ☐ This office does not concur with	npany): 1981
Bass A F	ordinary High Water Mark indicated by:    clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:    Mean High Water Mark indicated by: survey to available datum;   physical markings/cl tidal gages other:    Wetland boundaries, as shown on the attached wetland delineation map and/or in a delinea Crouch Environmental Services, Inc.

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG-PE-RB** 

FILE NUMBER: 23561

### PROJECT LOCATION INFORMATION:

State: County: Texas

Nueces County and San Patricio County

Center coordinates of site (latitude/longitude):

Terminal: 27deg.53min.6sec./97deg.16min.14sec;

Pipeline: 27deg.58min.21sec./97deg.25min.27sec.

Approximate size of area (parcel) reviewed, including uplands: 1,177 acres.

Name of nearest waterway: Terminal: Corpus Christi Bay; Pipeline: unnamed wetlands, Chiltipin Creek, and Oliver Creek.

Name of watershed: Terminal: 12110201 "North Corpus Christi Bay"; Pipeline: 12100407 "Aransas"

## JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 17 Dec 2004 Date(s): 7 July 2004

## Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 78 ac..

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 1.5 ac..

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

#### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: 23561

	teral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  Clear, natural line impressed on the bank  the presence of litter and debris  changes in the character of soil  destruction of terrestrial vegetation  shelving  ordinary High Water Mark indicated by:  High Tide Line indicated by:  oil or scum line along shore objects  fine shell or debris deposits (foreshore)  physical markings/characteristics  tidal gages  other:
×	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
	Other (explain):
	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Autural Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on: 7 July 2004  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG FILE NUMBER: Swg-04-14-054

PR	OJE	CT	LOCA	TION	INFORM	MATION:

State:

tx

County:

orange

Center coordinates of site (latitude/longitude):

utm NAD 27 (meters): Zone 15; Easting: 411508; Northing:

3324890

Approximate size of area (parcel) reviewed, including uplands: 0.05 acres.

Name of nearest waterway: Neches River

Name of watershed: Sabine

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 1/3/04

Date(s):

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

- (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- (iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

2 FILE NUMBER: Swg-04-14-054 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) High Tide Line indicated by: Ordinary High Water Mark indicated by: clear, natural line impressed on the bank oil or scum line along shore objects the presence of litter and debris fine shell or debris deposits (foreshore) changes in the character of soil physical markings/characteristics destruction of terrestrial vegetation tidal gages shelving other: other: project plans Mean High Water Mark indicated by: survey to available datum; physical markings; vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: File D-16076 **Basis For Not Asserting Jurisdiction:** The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated 8/27/04, prepared by (company): Berg Oliver Assoc. This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): Other photographs (Date):

Advanced Identification Wetland maps: Site visit/determination conducted on: Applicable/supporting case law: Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: CESWG	
FILE NUMBER: 21947(01)	

Sta Cou Cer App Nar		ite (latitude/longitudo a (parcel) reviewed, vay: Galveston Bay		2' 16"N, 95° 00' 48"W (NAD27) g uplands: <u>0.04</u> acres.	
	pictional dete mpleted: Desktop Site visit	determination	<b>3</b>	Date: 03 January 2005 Date(s):	
Jur	isdictional Determi	ination (JD):			
		or "navigable water		n, \( \subseteq \text{ there appear to be (or) } \subseteq \text{ there appear to be } \) United States" on the project site. A preliminary JD	
<b>2</b>	Approved JD – An Check all that apply		ppealable	e action (Reference 33 CFR part 331).	
				tates" (as defined by 33 CFR part 329 and associate tional area:0.04 acre	d guidance) within
				defined by 33 CFR part 328 and associated guidance al area:	e) within the
	There are "isol			ate waters or wetlands" within the reviewed area. NCC/Migratory Bird Rule Information Sheet for D	Determination of No
	Waters defined un The presence of wa	ters that are subject	29 as "na to the ebb	avigable waters of the United States": o and flow of the tide and/or are presently used, or left interstate or foreign commerce.	have been used in
B.	(1) The presence of interstate or foreign (2) The presence of (3) The presence of sandflats, wetlands destruction of whic (i) which are o (ii) from which (iii) which are (4) Impoundments	f waters, which are concerns are commerce, including interstate waters incommerce and a straight and affect interstate or could be used by interstate or could be used for of waters otherwise or could be used for of waters otherwise or could be used for otherwise o	urrently ung all wat cluding in s intrastat holes, we tate comm terstate of or could industria defined a	te lakes, rivers, streams (including intermittent streat et meadows, playa lakes, or natural ponds, the use, of nerce including any such waters (check all that app or foreign travelers for recreational or other purpose be taken and sold in interstate or foreign commerce all purposes by industries in interstate commerce. Is waters of the US.	le. ams), mudflats, degradation or sly): es.
	(6) The presence of (7) The presence of	territorial seas. wetlands adjacent <sup>2</sup>	to other w	ed in (1) – (4) above.  vaters of the US, except for those wetlands adjacent	
Pati	innale for the Racic	of Inriedictional D	atarmina	tion (applies to any boyes absolved above). The	proposad project is

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). The proposed project is located in Galveston Bay, a navigable water of the United States.

*******	teral Extent of Jurisdiction: (Reference: 33 CFR parts 328 a	
		High Tide Line indicated by:
	clear, natural line impressed on the bank	oil or scum line along shore objects
	the presence of litter and debris	fine shell or debris deposits (foreshore)
	changes in the character of soil	physical markings/characteristics
	destruction of terrestrial vegetation	tidal gages
	shelving	other: Applicant supplied information
	other:	C
	Mean High Water Mark indicated by:	
	survey to available datum; physical markings; ve	getation lines/changes in vegetation types.
*******	_	
	Wetland boundaries, as shown on the attached wetland delin	neation map and/or in a delineation report prepared by:
Ros	sis For Not Asserting Jurisdiction:	
	The reviewed area consists entirely of uplands.	
蜀	Unable to confirm the presence of waters in 33 CFR part 32	8(a)(1 2 or 4-7)
	Headquarters declined to approve jurisdiction on the basis of	
萄	The Corps has made a case-specific determination that the f	ollowing waters present on the site are not Waters of the
	United States:	onowing waters present on the site are not waters of the
	_	or logoons, nursuant to 22 CED most 229 2
	Waste treatment systems, including treatment ponds	
	Artificially irrigated areas, which would revert to up Artificial lakes and ponds created by excavating and	
		purposes as stock watering, irrigation, settling basins, or
	rice growing.	
	Artificial reflecting or swimming pools or other small	Il ornamental bodies of water created
	by excavating and/or diking dry land to retain water	for primarily aesthetic reasons.
	Water-filled depressions created in dry land incident	al to construction activity and pits excavated in dry land for
	the purpose of obtaining fill, sand, or gravel unless a	
		definition of waters of the United States found at 33 CFR
	328.3(a).	
	Isolated, intrastate wetland with no nexus to interstat	
	Prior converted cropland, as determined by the Natur	al Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavated on	dry land. Explain rationale:
	Other (explain):	
DATA R	REVIEWED FOR JURSIDICTIONAL DETERMINATIO	N (mark all that apply):
8	Maps, plans, plots or plat submitted by or on behalf of the ap	
	Data sheets prepared/submitted by or on behalf of the applica	
SHAPE.		, prepared by (company):
	This office does not concur with the delineation report, of	
	Data sheets prepared by the Corps.	, prepared by (company).
氮	Corps' navigable waters' studies:	
	U.S. Geological Survey Hydrologic Atlas:	
<u> </u>	U.S. Geological Survey 7.5 Minute Topographic maps:	
50	U.S. Geological Survey 7.5 Minute Topographic maps.	
200	U.S. Geological Survey 15 Minute Historic quadrangles:	
200		
	USDA Natural Resources Conservation Service Soil Survey:	
352	National wetlands inventory maps:	
	State/Local wetland inventory maps:	
	FEMA/FIRM maps (Map Name & Date):	
	100-year Floodplain Elevation is: (NGVD)	
	Aerial Photographs (Name & Date):	
<u>60</u>	Other photographs (Date):	
<u> </u>	Advanced Identification Wetland maps:	
7#7 \$ac	Site visit/determination conducted on:	
	Applicable/supporting case law:	
	Other information (please specify):	

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: CESWG FILE NUMBER: 23631

PROJECT LOCATION INFORM	A A TITANI.
PRIJIHLI LEH ALHIN INKLIK	MAIIIM:

State:

**Texas** 

County:

Matagorda

Center coordinates of site (latitude/longitude):

UTM 15 243123E 3184719N

Approximate size of area (parcel) reviewed, including uplands:

acres.

Name of nearest waterway: Gulf Intracoastal Waterway Name of watershed:

Gulf Intracoastal Waterway

JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 1/5/04

Date(s):

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, $\square$ there appear to be (or) $\square$ there appear to be no "waters of the
 United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable
(Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
- (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The project is located along the Gulf Intracoastal Waterway.

FILE NUMBER: 23631

Late	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  Clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  High Tide Line indicated by:  Gillor scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other: Plans
5.1	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.  Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Basi	is For Not Asserting Jurisdiction:  The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain):
$\Sigma$	EVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated prepared by (company):  This office does not concur with the delineation report, dated prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps:  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 16 Minute Historic quadrangles:  U.S. Geological Survey 17 Minute Historic quadrangles:  U.S. Geological Survey 18 Minute Historic quadrangles:  U.S. Geological Survey 19 Minute Historic quadrangles:  U.S. Geological Survey 10 Minute Historic quadrangles:

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** Galveston District FILE NUMBER: SWG-05-07-001

State:

PROJECT LOCATION INFORMATION: Texas

> County: Harris Center coordinates of site (latitude/longitude):

30-3-46N/95-29-49.2W

Approximate size of area (parcel) reviewed, including uplands: 11 acres.

Name of nearest waterway: Seal Gully Name of watershed: Spring Creek

### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 10 January 2005

Date(s):

#### Jurisdictional Determination (JD):

Preliminary JD - Based on available information.  $\square$  there appear to be (or)  $\square$  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.036 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: SWG-05-07-001

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:    High Tide Line indicated by:   Oil or scum line along shore objects									
	the presence of litter and debris fine shell or debris deposits (foreshore)									
	changes in the character of soil physical markings/characteristics									
	destruction of terrestrial vegetation tidal gages									
	shelving other:									
	other:									
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.									
Ø	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by Oliver Associates (Report No. 4845PM04; November 2004)									
	is For Not Asserting Jurisdiction:									
	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).									
2000 (CN)	Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).									
T.	The Corps has made a case-specific determination that the following waters present on the site are not Waters of the									
	United States:									
	Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.									
	Artificially irrigated areas, which would revert to upland if the irrigation ceased.									
	Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or									
	rice growing.									
	Artificial reflecting or swimming pools or other small ornamental bodies of water created									
	by excavating and/or diking dry land to retain water for primarily aesthetic reasons.									
	Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR									
	328.3(a).									
	Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:									
	<u> </u>									
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):									
DATA R	EVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant.									
	Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated 10 July 2003, prepared by (company): Berg/Oliver Assoc.									
	This office does not concur with the delineation report, dated , prepared by (company):									
	Data sheets prepared by the Corps.									
	Corps' navigable waters' studies:									
	U.S. Geological Survey Hydrologic Atlas:									
X	U.S. Geological Survey 7.5 Minute Topographic maps:									
<u>8.2</u>	U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles:									
60	USDA Natural Resources Conservation Service Soil Survey:									
X	National wetlands inventory maps:									
83	State/Local wetland inventory maps:									
<u> </u>	FEMA/FIRM maps (Map Name & Date):									
	100-year Floodplain Elevation is: (NGVD)									
	Aerial Photographs (Name & Date): Other photographs (Date):									
Cad Wind	Advanced Identification Wetland maps:									
Ž.	Site visit/determination conducted on: 13 June 2003									
X	Applicable/supporting case law:									
	Other information (please specify):									

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.